

## REMARKS

In the Office Action of March 29, 2005, the Examiner rejected claims 1 through 3, 5 through 14 and 16 through 20 under 35 USC 102 (b) under the Gaiser et al patent. Claims 4 and 15 are rejected under 35 USC 103 (a) as obvious on the basis of the same prior art reference. Objections to the specification and claims are also made.

It is believed that the objections have been overcome by the above amendments to the specification and the submission of all new claims in the case.

Concerning the prior art rejections based on the Gaiser et al reference, applicant respectfully disagrees with the rejections, for the following reasons:

### I. Rejections based On Gaiser et al

The reference to Gaiser describes a system and method for dispensing viscous material that relies upon a disc member that is connected to a flange. While the reference is directed to problems similar to the problems that the present invention solves. The Gaiser teachings involve a different method and a different structure to obtain its purpose. The following are some of the differences:

A. The present invention device has a base member adapted to fit onto a container and under a container cap to seal it around its periphery. Gaiser 's device doesn't even have a base member. The Examiner is calling the dispensing cap closure body top portion 20 of Gaiser's Figures a base member, but that's impossible, as the base member is to fit under the closure top in the present invention. Gaiser's closure top 20 can't be the base member of the insert device and be the cap top under which it is fitted at the same time.

B. The present invention device has a base member and has a separator tube that extends downwardly from the base member. Gaiser's insert has no base member; instead, it has a flange that extends upwardly.

C. The present invention device has mixing ribs that extend downwardly from the base member. Gaiser's device is a circular horizontal disc that extends outwardly and not downwardly, and even curves slightly upward contrary to the Examiner's statement that it angles downwardly. See Figure 1 of Gaiser. The element referred to by the Examiner as mixing rib 26, but by Gaiser as disk-like member 26, clearly curves upwardly.

D. The present invention device has the mixing ribs attached, in some claims, to both the dispensing tube and the base member. No such embodiments are possible in the Gaiser teachings.

E. The present invention device has, in some claims, spikes for mixing ribs. It would not be obvious to modify Gaiser's components to replace the disc with a set of spikes, because this would defeat the entire mechanism of Gaiser to cap off the viscous liquid and to have it flow in the manner set forth in Gaiser.

F. The present invention device has, in some claims, its mixing ribs attached to the dispensing tube only. This is nowhere taught or suggested or rendered obvious by Gaiser.

For all of the above reasons, Gaiser neither teaches nor renders obvious the claimed present invention. Thus, the claims should be allowed. However, notwithstanding the foregoing, applicant has amended the claims to more clearly distinguish over the prior art. These include the following:

1. The new claims are “consisting of” to further establish the structural differences between the present invention and the Gaiser teachings.
2. The three components (base member, mixing ribs and dispenser tube) are all fixedly connected to one another. This eliminates an interpretation of Gaiser wherein parts of those teachings that are different components have been treated as connected, e.g., treating the cap top spout of Gaiser as a dispensing tube of the device under the cap.
3. There are a plurality of mixing ribs in all embodiments and these are now expressly claimed.
4. Some new claims are directed to the Figure 1 preferred embodiments where the height of the tube is greater than the diameter of the base.

In view of the foregoing, it is urged that the new claims are allowable.

## **II. New Prior Art**

In the telephone interview with the Examiner on this application, the undersigned was directed to new prior art to review. Specifically, U. S. Patent No. 6,689,279 (Elizabeth Train) and U. S. Application No. 2003/0218935 (Mei-Hui Hu) were mentioned. These have been reviewed and were taken into consideration when the above amendments were made. Train has no mixing ribs and represents only a tube for separating the contents of the bottle, and Hu is a rotating fin with no connection to a base member and no relation to a dispenser tube, as claimed herein. These references are directed to the same problem as the present invention, but do so in a different manner and with different structures.

### III. Conclusions

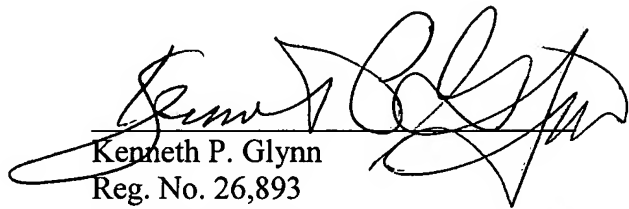
In view of the above amendments and remarks, and the new claims with the limitations set forth therein, it is urged that claims 21 through 40 should be allowed.

Thank you.

Respectfully submitted,

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enclosures  
cc: Louis Illuzzi  
EM RRR ER 416520282 US

A handwritten signature in black ink, appearing to read 'Kenneth P. Glynn', is written over a horizontal line.

Kenneth P. Glynn  
Reg. No. 26,893  
Attorney for Applicant  
24 Mine Street  
Flemington, NJ 08822-1598  
(908) 788-0077 Tele  
(908) 788-3999 Fax